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09/690,159	10/17/2000	Oleg B. Rashkovskiy	INTL-0472-US (P10019)	2744

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EXAMINER

VU, NGOC K

ART UNIT PAPER NUMBER

2611

DATE MAILED: 12/16/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/690,159

Applicant(s)

RASHKOVSKIY, OLEG B.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-10, 17-25 and 28-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10, 17-25 and 28-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 7-10, 17-25 and <sup>28</sup>~~21~~-43 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-10, 17-25 and 21-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levitan et al (US 20020073421 A1) in view of McGarrahan et al. (US 20030026424 A1).

Regarding claim 7, Levitan discloses a method comprising: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose the feature of comparing the rating of the content to a content rating specified by an advertiser, the content rating specified by the advertiser to

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indicate a level of the one or more characteristics present in content that is acceptable to the advertiser.

However, McGarrahan teaches that the system may provide presentation of R rated advertisements in conjunction with R rated movies. As these advertisements have entertainment value in and of themselves, advertisements can be placed at end of movies as well as at the beginning thereof. It is noted that the system must includes the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie matches to the content rating "R" for providing the suitable advertisement (see page 5, paragraph 48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Levitan by presenting the rated advertisements in conjunction with the matched rating of movies as taught by McGarrahan in order to appropriately provide the advertisements to the viewers.

Regarding claim 8, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 9, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 10, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 17, Levitan discloses an article comprising a medium for storing instructions (programmable software) that enable a processor-based system performs: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ... etc) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose the feature of comparing the rating of the content to a content rating specified by an advertiser, the content rating specified by the advertiser to indicate a level of the one or more characteristics present in content that is acceptable to the advertiser.

However, McGarrahan teaches that the system may provide presentation of R rated advertisements in conjunction with R rated movies. As these advertisements have entertainment value in and of themselves, advertisements can be placed at end of movies as well as at the beginning thereof. It is noted that the system must includes the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie matches to the content rating "R" for providing the suitable advertisement (see page 5, paragraph 48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Levitan by presenting the rated advertisements in

conjunction with the matched rating of movies as taught by McGarrahan in order to appropriately provide the advertisements to the viewers.

Regarding claim 18, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 19, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 20, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 21, Levitan discloses a system (14) comprising: a receiver (24) that receives the transmission of content (for instance, television program), the receiver including a shell (22) to enable the use of content to be interrupted and temporarily replaced with advertising (client computer 22 interrupts the television program to present a commercial by replacing a portion of the television program with advertising or alternative component. For instance, depending on viewer's preference the system may replace a certain scene of the television program by a commercial (see abstract; page 1, 0010; page 2, 0022); and storage (28) coupled to the receiver storing instruction that enable the receiver to access a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content, the rating based on the degree to which the one or more characteristics is present within content (determining a

certain scene of the television program contains rating such as violence, sex, and explicit language ...etc) (see abstract; page 1, 0010; page 3, 0023 and figure 2).

Levitan does not specifically disclose the feature of comparing the rating of the content to a content rating specified by an advertiser, the content rating specified by the advertiser to indicate a level of the one or more characteristics present in content that is acceptable to the advertiser.

However, McGarrahan teaches that the system may provide presentation of R rated advertisements in conjunction with R rated movies. As these advertisements have entertainment value in and of themselves, advertisements can be placed at end of movies as well as at the beginning thereof. It is noted that the system must includes the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie matches to the content rating "R" for providing the suitable advertisement (see page 5, paragraph 48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Levitan by presenting the rated advertisements in conjunction with the matched rating of movies as taught by McGarrahan in order to appropriately provide the advertisements to the viewers.

Regarding claim 22, Levitan shows that the system is a television receiver (see figure 2).

Regarding claims 23-25, Levitan discloses that the receiver determines and output a targeted advertisement based on the television program content (see page 1, 0007, 0010; page 3, 023).

Regarding claim 28, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 29, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 30, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 31, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 32, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 34, Levitan discloses a method comprising: assigning a rating to content, the rating based on the degree to which a characteristic is present in the content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc) (see abstract; page 1, 0010; page 3, 0023).

Levitan does not specifically disclose the feature of comparing the rating of the content to a content rating required by an advertiser, the content rating required by the advertiser to indicate an acceptable level of the content characteristic with which an advertisement of the advertiser may be associated.



However, McGarrahan teaches that the system may provide presentation of R rated advertisements in conjunction with R rated movies. As these advertisements have entertainment value in and of themselves, advertisements can be placed at end of movies as well as at the beginning thereof. It is noted that the system must includes the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie matches to the content rating "R" for providing the suitable advertisement (see page 5, paragraph 48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Levitan by presenting the rated advertisements in conjunction with the matched rating of movies as taught by McGarrahan in order to appropriately provide the advertisements to the viewers.

Regarding claims 35-36, the combination teaching of Levitan and McGarrahan discloses determining whether the assigned rating of the content and the content rating required b the advertiser match, and further comparing content type to type of content required by the advertiser (it is noted that the system must includes the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie or the content type matches to the content rating or the type of content "R" for providing the suitable advertisement - see McGarrahan: page 5, paragraph 48).

Regarding claim 37, Levitan discloses the content is television program (see abstract). It must be understood that the television program includes the musical content.

Regarding claims 38-39, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 40, Levitan discloses automatically interrupting the use of the content; to replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component) (see page 2, paragraph 022, abstract). It is noted the system of Levitan as modified by McGarrahan including the step of comparing the "rating" of the movie to a content rating, i.e., R, which specified by an advertiser, to determine whether the rating of the movie or the content type matches to the content rating or the type of content "R" for providing the suitable advertisement (see McGarrahan: page 5, paragraph 48).

Regarding claim 41, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claims 42 and 43, Levitan as modified by McGarrahan by including the content receiver to temporarily replace the content with advertising when rating for the content is at an acceptable level as indicated by the content rating specified by the advertiser (for example, providing the rated advertisement "R" when the rating of the television program is matched – see McGarrahan: page 5, paragraph 48).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.



ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

NV  
December 2, 2003